

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

CHAPTER 11

Case No. 1-21-42417-ess

RALPH COSTAGLIOLA,

Debtor.

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TO THE HONORABLE ELIZABETH S. STONG
US BANKRUPTCY JUDGE:

**APPLICATION IN SUPPORT OF MOTION
TO INCREASE EXCLUSIVE PERIOD TO FILE PLAN**

The application of Ralph Costagliola, ("Applicant"), the above-named Debtor and Debtor-in-Possession, by his attorneys Corash & Hollender, PC respectfully shows and alleges:

1. On September 27, 2021 the Debtor filed in this Court a Petition, under Chapter 11 of the Bankruptcy Code, to effect a reorganization of his financial status and particularly of his debts owing to his creditors.

2. Debtor intends to sell a portion of his interest in an LLC from which he operates his Oral Surgery practice (in conjunction with other co-owners who own the remaining 40% interest in the LLC) enabling an identified new co-owner to acquire a 50% interest in the building, and to refinance the mortgage on that property to raise funds to pay his creditors through a Plan of Reorganization to be filed herein. A joint mortgage application for that purpose has heretofore been submitted to Kearney Bank to fund the sale and the Plan of Reorganization to be filed herein.

3. Section 1121(b) of the Bankruptcy Code states that only a debtor may file a plan until after 120 days from the order for relief and if a debtor files a Plan within the 120 days

exclusive period, it has 180 days from the order for relief to obtain acceptance of such plan. Section 1121(d)(1) of the Bankruptcy Code states that on request of a party in interest made within the 120-day period, the court for cause may increase the debtor's exclusive 120 day period to file a plan and the 180 day period to obtain acceptance of the plan. January 25, 2022 is 120 days after the order for relief in the case filed by the debtor. By this motion filed within the 120 days of the order for relief, the Debtor requests that this court increase his exclusive period to file his plan of reorganization for an additional 90 days and his time for obtaining acceptances for additional 90 days.

4. Courts have used several factors in determining whether a debtor has shown cause for an extension, the size and complexity of the case, the need for sufficient time to negotiate, good faith progress towards reorganization, whether the debtor is paying debts as they come due, whether the debtor has reasonable prospects for reorganization, progress in negotiations with creditors, length of time case in pending, whether debtor seeks extension to pressure creditors, and existence of unresolved contingencies. In re Adelphia Communications, 352 B.R. 578 (Bankr. S.D.N.Y. 2006). Other courts found that the most important factor is whether terminating exclusivity would move the case forward. In re Dow Corning Corp., 208 B.R. 661 (Bankr. E.D. Mich 1997).

5. Many of the factors exist in this case. The Debtor is making good faith progress toward reorganization. This court has issued a Bar Order in this case ordering the claims to be filed by January 24, 2022. The debtor has made his mortgage application to Kearney Bank and the debtor and co-borrower are in the process of collecting and submitting documentation which the bank has requested for underwriting review. The debtor and co-borrower are working on an inter-party agreement for ownership of medical building from which the debtor operates his oral

surgery practice, and are simultaneously working on a contract of sale from the present owners to the debtor and the new co-owner. Finally, the debtor has been diligently working with the attorneys for the pre-bankruptcy Receiver, and for the judgment creditor who requested the appointment of the Receiver to negotiate a settlement which will be incorporated into a plan of reorganization. The debtor's case has been pending for less than 120 days and the debtor requests a 90 day increase of his time to file a plan reorganization and a 90 day extension of his time to obtain acceptances to the plan.

6. As a result of the foregoing, the Debtor submits that he has shown cause for a 90 day increase of his exclusive time to file his plan and a 90 day increase of his time to obtain acceptances to the plan. A proposed order is annexed as Exhibit A.

7. Because this Application presents no novel issue of law, it is requested that the requirement for a Memorandum of Law be waived.

WHEREFORE, the Debtor respectfully prays for the relief sought herein for which no previous applications have been made.

Dated: Staten Island, New York
January 3, 2022

Corash & Hollender, P.C.
Attorneys for Debtor and Debtor-in-possession

By: _____/s/_____
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